

House Bill 107

By: Representatives Geisinger of the 48th, Chambers of the 81st, and Sims of the 119th

A BILL TO BE ENTITLED
AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions, so as to provide for legislative intent; to provide for definitions; to create the State Board of Locksmiths; to provide for the membership, duties, and powers of such board; to provide for fees; to provide for the licensing and registration of locksmith contractors, locksmiths, and apprentices; to provide for qualifications for licensing and registration; to provide for continuing education; to provide for certain documentation and records; to provide for identification cards; to provide for the maintenance of certain information; to prohibit certain acts; to provide for penalties and sanctions; to provide for exceptions; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions, is amended by adding a new chapter to read as follows:

"CHAPTER 23A

43-23A-1.

(a) The General Assembly finds that:

(1) Locksmiths operate in the public trust to service, secure, and protect persons and property;

(2) Locksmiths must be trained in regulations and laws applicable to their profession such as the Americans with Disabilities Act, building codes, and fire and life safety codes, as well as be trained in the proper installation and maintenance of security devices and in the ever-evolving knowledge of motor vehicle locks, keys, and built-in security systems;

(3) The current laws and rules of this state do not protect the citizens of this state from the unscrupulous use of the tools and knowledge of the locksmith profession by untrained persons or by persons who have criminal intent or have been convicted of certain crimes;

(4) As trained and tested experts in physical, motor vehicle, and electronic security, locksmiths make positive contributions to state-wide homeland security by protecting and providing services for homes, businesses, hospitals, schools, government buildings, and motor vehicles of first responders or emergency responders; and

(5) The licensing and regulation of persons performing locksmith services in this state is necessary to protect the safety and security of the public.

(b) The purpose of this chapter is to protect the public from the misuse of locksmithing knowledge, supplies, manuals, or equipment which results in the violation of public safety and security through the licensing of locksmith contractors.

43-23A-2.

As used in this chapter, the term:

(1) 'Apprentice locksmith' means any natural person, 16 years of age or older, who performs locksmith services for the public for compensation under the direct and continuous supervision of a locksmith contractor or locksmith.

(2) 'Automotive only locksmith' means a locksmith contractor, locksmith, or apprentice locksmith who provides locksmith services for motor vehicles only.

(3) 'Board' means the State Board of Locksmiths.

(4) 'Bump key' means any fabricated, specially shaped, or modified key intended to be used to unlock a lock by means other than that intended by the manufacturer.

(5) 'Car opening tool' means any metal, cloth, nylon, rubber, or plastic tool or device designed to enter, bypass, or otherwise overcome the locking systems or locking mechanisms of a motor vehicle by means other than intended by the manufacturer.

(6) 'Change key' means a key planned and cut to operate a specific group or series of locks which all have the same combination of tumblers, pins, or wafers.

(7) 'Codebook' means a compilation, in any form, of key codes.

(8) 'Code-grabbing device' means any device that can receive, record, or receive and record the code signal sent by the transmitter of a motor vehicle's security, alarm, or immobilizer system and playback the signal to disarm, bypass, or neutralize the system.

(9) 'Designee' means a natural person who possesses the requisite skill, knowledge, and experience; is responsible for supervising, directing, managing, and controlling the locksmith services activities of the business organization with which he or she is employed; and whose technical and personal qualifications have been determined by

investigation and examination as provided in this chapter by the board and who has been issued a license as a locksmith contractor by the board.

(10) 'Emergency' means a life-threatening situation involving a person or any animal generally regarded as a pet.

(11) 'Key duplication machine' means any device capable of copying or reproducing keys.

(12) 'License' means a document issued by the board and granted to a locksmith contractor according to the requirements of this chapter.

(13) 'Licensee' means a locksmith contractor issued a license under this chapter.

(14) 'Licensing' means a method of regulation whereby the state, through the issuance of a license, authorizes persons possessing the character, required skills, and insurance to engage in the practice of locksmithing as a locksmith contractor.

(15) 'Lock' means any mechanical, electromechanical, electronic, or electromagnetic device or similar devices, including any peripheral hardware such as, but not limited to, closed circuit television systems, wireless or infrared transmitters, card readers, keypads, or biometric scanners that are designed to control access to and egress from something or are designed to control the use of something.

(16) 'Lock pick' means any manual, electric, or electronic tool or device used to bypass, override, or neutralize a lock by means other than intended by the manufacturer.

(17) 'Locksmith' means a natural person, at least 18 years of age, who performs locksmith services for the public for compensation while in the employ of a locksmith contractor and whose background and experience have been verified by the board. Locksmith does not mean a person whose activities are limited to making duplicate keys.

(18) 'Locksmith contractor' means a natural person, at least 18 years of age, who has been licensed by the board under this chapter, performs locksmith services for the public, receives compensation for his or her services, and is the designated licensee for a business providing locksmith services.

(19) 'Locksmithing' or 'locksmith services' means:

(A) Selling, installing, servicing, repairing, repinning, recombining, and adjusting locks, safes, vaults, or safe-deposit boxes;

(B) Originating, duplicating, and copying keys;

(C) Opening, bypassing, and neutralizing locks, safes, vaults, or safe-deposit boxes;

(D) Creating, documenting, selling, installing, managing, and servicing master-key systems;

(E) Unlocking, bypassing, or neutralizing locks of motor vehicles by means other than intended by the manufacturer;

(F) Originating of keys for motor vehicles that includes, if necessary, the programming, reprogramming, or bypassing of any security, transponder, or immobilizer systems or subsequent technology built in by the manufacturer; and

(G) Keying, rekeying, or recombining of motor vehicle locks.

(20) 'Locksmithing tool' means any tool that is designed, or intended by the user to be used, to open a mechanical, electronic, magnetic, or electrical locking device by any means other than that intended by the manufacturer for such a device in normal operation.

(21) 'Manipulation key' means any key other than a change or master key that can be variably positioned or manipulated in a keyway to bypass, override, or neutralize a lock by means other than intended by the manufacturer to open a lock. For the purposes of this chapter, the term 'manipulation key' shall also apply to wiggle and bump keys.

(22) 'Master key' means a key planned or cut to operate all locks in a series or group of locks, with each lock in the series or group having its own unique key. For the purposes of this chapter, submaster, grand master, great grand master, emergency override, and maid's keys shall be considered the same as a master key.

(23) 'Master-key system' means a system of locks in which a lock is keyed so that it can be operated by its own individual key and can also be operated by a key that can operate locks in the system that are also keyed to their own individual keys.

(24) 'Organization' means any entity other than a natural person, including, but not limited to, an association, corporation, partnership, or sole proprietorship.

(25) 'Photo identification card' means a document supplied by the locksmith contractor with a photograph of the locksmith contractor, locksmith, or apprentice locksmith on its face, the format of which is approved by the board.

(26) 'Registration' means the registering of locksmiths, automotive only locksmiths, and apprentice locksmiths with the board pursuant to this chapter.

(27) 'Safe-opening tool' means any tool designed, or intended by the user to be used, to open a safe, safe-deposit box, or similar object by means other than that which is intended by the manufacturer of the safe, vault, safe-deposit box, or similar object for normal opening.

(28) 'Tryout key' means a manipulation key that may or may not be one of a set of similar keys used for a specific series, keyway, or brand of lock to open, bypass, override, or neutralize a lock by means other than intended by the manufacturer.

43-23A-3.

(a) There is created the State Board of Locksmiths for the purpose of administering licensing and registration of persons performing locksmith services in this state. The board shall be composed of nine members appointed by the Governor and confirmed by the

Senate. Five board members shall be locksmith contractors, locksmiths, or a combination of the two. Two board members shall be automotive only locksmiths. One board member shall be a certified electrical contractor. One board member shall be a consumer who is not by training or experience a locksmith, is not the spouse, parent, child, or sibling of a locksmith, and has no direct or indirect financial interest, except as a consumer, in the locksmith profession. Each board member, except the consumer member, must have at least three years' experience in his or her profession and be currently engaged in that profession or must be honorably retired from his or her profession and must have more than five years' experience in the profession prior to retirement. Each board member must be a resident of the state. Board members shall be appointed in such a manner as to equitably represent all geographic areas of the state.

(b) Board members shall be appointed for four-year terms. No member shall serve more than two consecutive four-year terms or serve for more than 11 years on the board. To ensure continuity of board policies, the Governor shall initially appoint two members for a one-year term, two members for a two-year term, two members for a three-year term, and three members for a four-year term. As the terms of members expire, the Governor shall appoint successors for terms of four years. A member whose term has expired shall continue to serve until such time as a replacement is appointed and confirmed. Any vacancy occurring prior to expiration of a term shall be filled by the Governor for the remainder of the term.

(c) The board shall annually elect from its membership a chairperson and a vice chairperson. The board shall convene at the call of the chairperson or at the request of a majority of the members of the board. Five members of the board shall constitute a quorum. The affirmative vote of the majority of the members present shall be required for any action or recommendation by the board.

(d) The powers and duties of the board shall be as follows:

(1) To establish the qualifications for licensing and registration and to ensure the competency and integrity of applicants to engage in the profession;

(2) To examine, or cause to be examined, the qualifications of each applicant for licensing, including, when necessary, the preparation, administration, and grading of examinations;

(3) To license qualified applicants;

(4) To establish fees for application, examination, background checks, registration, licensing, and renewal of such licenses that are sufficient to cover all expenses for the administration and operation of the board;

(5) To, either directly or through a designee, periodically consult with state and federal law enforcement officials to determine whether current licensees have criminal convictions;

(6) To receive and investigate complaints concerning the conduct of any person whose activities are regulated by the board and to take appropriate disciplinary action, if warranted;

(7) To ensure inspections are conducted relating to the operations of this profession to ensure competency and lawful compliance;

(8) To revoke, suspend, or nonrenew licenses for just cause as enumerated in the rules and regulations of the board; and

(9) To issue a code of ethics under which the professional activities of persons regulated shall be conducted, encouraging self-policing of all standards by all locksmiths.

(e) The board shall have the authority to adopt rules and regulations to implement provisions of this chapter and the board shall adopt rules and regulations including, but not limited to, the following:

(1) Requirements for training and licensing of locksmith contractors;

(2) Requirements for registration and training for locksmiths, automotive only locksmiths, and apprentices;

(3) Requirements and process for background checks and fingerprint checks for persons governed by this chapter;

(4) Establishment of application, examination, licensure, registration, certification, renewal, and other reasonable and necessary fees, based upon the board's estimate of the costs to the board in administering this chapter;

(5) Establishment of competency standards after public hearings and consultation with locksmith contractors, locksmiths, and automotive only locksmiths;

(6) Establishment of a code of ethics under which the professional activities of persons regulated under this chapter shall be conducted, encouraging self-policing of all standards established under the code by such persons; and

(7) Disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board pursuant to this chapter and any rule or regulation of the board, including, but not limited to, specifying a meaningful range of designated penalties based upon severity and repetition of specific offenses and designation of mitigating and aggravating circumstances.

(f) The application form for initial issuance or renewal of a license or registration, including any forms required for fingerprint and criminal background checks, photo identification cards, methods to obtain and renew photographs, and other requirements for implementing this chapter shall be established by rule or regulation by the board.

43-23A-4.

(a) The board shall evaluate the competency of any person applying for licensing as a locksmith contractor.

(b) The board may develop and administer an examination program to evaluate competency or, after review of its adequacy, scope, and content, rely on an examination program developed and administered by others. The board shall, by rule or regulation, establish the examination score needed for qualification for licensing.

(c) Any person desiring to be licensed as a locksmith contractor shall apply to the board on forms furnished by the board. The board shall license each applicant who:

(1) Has completed the application form and remitted a nonrefundable application fee as determined by board rule;

(2) Is at least 18 years of age;

(3) Complies with the competency requirements as established by board rule or regulation;

(4) Shows proof of insurance as required in Code Section 43-23A-9;

(5) Has submitted to the board a set of fingerprints on a form and under procedures specified by the board for a criminal record check and payment in an amount equal to the costs incurred by the board for the fingerprint and criminal background check of the applicant. The board, or its designee, shall periodically, including at the time of license renewal, consult with state and federal law enforcement officials to determine whether current licensees have new criminal convictions; and

(6) Does not have an unpardoned felony in his or her criminal record that would adversely affect his or her employment in the locksmith profession or has had any prior license to do business revoked for fraud or misrepresentation.

(d) An applicant shall not be refused a license to practice as a locksmith contractor solely because of a prior criminal conviction unless the criminal conviction directly relates to the ability of the applicant to work in the locksmith profession. However, the board shall have the authority to refuse an applicant a license, if, based on all the information available, including the applicant's record of prior criminal convictions, it finds that the applicant is unfit or unsuited to engage in the locksmith profession.

(e) The license granted under this chapter shall not be transferred or assigned and is valid only with respect to the locksmith contractor to whom it is issued.

43-23A-5.

(a) A nonresident of this state may be licensed as a locksmith contractor by meeting one of the following requirements:

(1) Conforming to the provisions of this chapter and the rules and regulations of the board pertaining to this chapter; or

(2) Holding a valid locksmith contractor license, or the equivalent thereof, in another state with which reciprocity has been established by the board.

(b) The board may waive examination requirements for any person who has been issued a locksmith contractor license, or the equivalent thereof, within the previous three years, from another state which the board has determined tests for competency standards equivalent to those established pursuant to this chapter and the license has not expired or been revoked.

43-23A-6.

(a) The term of each license shall be no longer than two years. A license shall expire on its anniversary date unless renewed, suspended, or revoked.

(b) The board shall renew a license:

(1) Upon receipt of the renewal application and fee;

(2) Upon receipt of proof of insurance as required in Code Section 43-23A-9;

(3) Upon receipt of a set of fingerprints on a form and under procedures specified by the board for his or her criminal record check and payment in an amount equal to the costs incurred by the board for the fingerprint and criminal background check of the applicant;

(4) Upon receipt of verification of completion of continuing education requirements as delineated in subsection (d) of this Code section; and

(5) Upon the board determining that the applicant is qualified for relicensure.

(c) An applicant shall not be refused a renewal of a license to practice as a locksmith contractor solely because of a prior criminal conviction unless the criminal conviction directly relates to the ability of the applicant to work in the locksmith profession. However, the board shall have the authority to refuse renewal of a license, if, based on all the information available, including the applicant's record of prior criminal convictions, it finds that the applicant is unfit or unsuited to engage in the locksmith profession.

(d)(1) As a prerequisite for license renewal, every two years a locksmith contractor licensed under this chapter shall complete a minimum of 16 hours of continuing education training classes approved by the board and must provide documentation of such completion to the board. A minimum of four hours of the continuing education requirement must include a review of the Americans with Disabilities Act and the Life Safety Code.

(2) As a prerequisite for license renewal, every two years an automotive only locksmith contractor licensed under this chapter shall complete a minimum of eight hours of

273 continuing education classes approved by the board and must provide documentation of
274 such completion to the board.

275 43-23A-7.

276 (a) Any employee of a locksmith contractor who performs locksmithing services as
277 defined in Code Section 43-23A-2 shall be registered with the board.

278 (b) A licensed locksmith contractor may employ or supervise, in the conduct of the
279 organization's business, a person who meets the following requirements:

280 (1) Is a United States citizen or a legal resident alien;

281 (2) Has been determined by the board not to have been convicted of a felony or
282 misdemeanor offense in this or any other state nor convicted of any crime related to the
283 practice of locksmithing;

284 (3) Is at least 18 years of age if a locksmith or is at least 16 years of age if an apprentice
285 locksmith; and

286 (4) Has not had a license or registration refused, denied, suspended, or revoked under
287 this chapter.

288 (c) No person may be employed by a locksmith contractor until he or she has executed and
289 furnished to the employer, on forms approved by the board, a verified statement, to be
290 known as the 'employee's statement,' providing:

291 (1) The person's full name, date of birth, and residence address;

292 (2) The name of the country of which the person is a citizen and, if the person is not a
293 United States citizen, proof that the person is a legal resident;

294 (3) The business or occupation engaged in for the five years immediately preceding the
295 date of execution of the employee's statement, the location of the business or occupation,
296 and the names of employers, if any;

297 (4) That the person has not had a license or employee registration refused, revoked, or
298 suspended under this chapter;

299 (5) Any conviction of a felony that directly relates to the ability of the applicant to work
300 in the locksmithing profession; and

301 (6) Any other information as may be required by the board to show the good character,
302 competency, and integrity of the person executing the employee's statement.

303 (d)(1) A person seeking employment as a locksmith, an automotive only locksmith, or
304 an apprentice locksmith shall submit to the board, with the applicable fees, on fingerprint
305 cards furnished by the board, two complete sets of fingerprints that are verified to be
306 those of the applicant for employment. If an applicant's fingerprint cards are returned to
307 the board as unclassifiable by the screening agency, the applicant shall have 30 calendar

days after notification is sent by the board to submit fingerprints taken by a different fingerprint technician.

(2) It shall be unlawful for an applicant for employment as a locksmith, automotive only locksmith, or an apprentice locksmith to file with the board the fingerprints of a person other than himself or herself or for an employer to fail to exercise diligence in resubmitting replacement fingerprints for an employee who has had original fingerprint submissions returned as unclassifiable by the screening agency.

(e) Upon receipt of the verified fingerprint cards, the board shall cause the fingerprints to be checked against the fingerprints on file with the Georgia Crime Information Center and the Federal Bureau of Investigation. The board shall notify the submitting locksmith contractor within ten business days upon the invoking of a procedure to deny registration.

(f) Within five business days after receipt of the application materials, the board shall begin the criminal record investigation by checking the applicant's name with the criminal history information maintained by the Georgia Crime Information Center.

(g)(1) To maintain his or her standing as a locksmith, every two years a locksmith employed by a locksmith contractor shall complete 16 hours of continuing education training classes approved by the board and must provide documentation of such completion to the board upon request.

(2) While serving as an apprentice, an apprentice locksmith shall complete a minimum of 16 hours of board approved continuing education every year and must provide documentation of such completion to the board upon request.

(3) A minimum of four hours per block of required continuing education training under this subsection must include a review of the Americans with Disabilities Act and the Life Safety Code and documentation of such completion must be provided to the board upon request.

(4) An automotive only locksmith employed by a locksmith contractor shall also complete a minimum of eight hours of board approved continuing education every two years and must provide documentation of such completion to the board upon request.

(5) An automotive only apprentice locksmith shall complete a minimum of eight hours of board approved continuing education every year and must provide documentation of such completion to the board upon request.

(6) The locksmith, apprentice locksmith, automotive only locksmith, and automotive only apprentice locksmith must also provide other information as may be required by the board, by rule or regulation, to renew his or her registration biennially.

(h)(1) Failure of a locksmith, automotive only locksmith, apprentice locksmith, or automotive only apprentice locksmith to meet the requisite continuing education requirement shall result in a board imposed fine and designated time period for

compliance with the requirement. Failure to comply by the designated time shall result in the levy of additional fines and may result in the removal of his or her standing and registration as a locksmith, automotive only locksmith, apprentice locksmith, or automotive only apprentice locksmith.

(2) The board shall, by rule or regulation, provide for the implementation of this subsection, including fines to be levied.

(i) A duly authorized representative of the board shall have access to all records to be kept under this Code section upon three business days' advance notice provided in writing to the locksmith contractor.

43-23A-8.

(a) No locksmith contractor may employ any person who performs locksmith services under this chapter unless the employer:

(1) Submits to the board the name, address, date of birth, and such other information sufficient to identify the individual, as the board shall require by rule or regulation, including, but not limited to, fingerprint cards and fees; and

(2) Exercises due diligence to ensure that the person is qualified under the requirements of this chapter to be a locksmith or an apprentice locksmith.

(b) Each employer shall maintain a record of each employee that contains the following information:

(1) Two photographs shall be taken within ten days of the date that the employee begins employment. One copy shall be used for the employee's photo identification card. The second shall be retained in the employee's personnel record by the employer. These photographs shall be replaced with a current photograph every three calendar years;

(2) A background check on each employee, which shall be completed a minimum of once every three calendar years and a copy of which shall be kept in the employee's personal record for inspection and another copy of which shall be submitted to the board upon request; and

(3) A record of continuing education accomplishments and any certificates issued.

(c) The locksmith contractor must supply a photo identification card to any locksmith contractor, locksmith, automotive only locksmith, apprentice locksmith, and automotive only apprentice locksmith under his or her supervision.

43-23A-9.

A locksmith contractor shall maintain an insurance policy sufficient for the purpose of paying claims or judgments for damages which may occur as a result of negligence of such

379 contractor or his or her employees. Minimum insurance requirements are general or
380 professional liability and, if applicable, workers' compensation.

381 43-23A-10.

382 (a) Requirements for the photo identification card form, the method to obtain and renew
383 photographs, and the use and display of licenses and license numbers shall be included in
384 rules and regulations adopted by the board pursuant to Code Section 43-23A-3.

385 (b) All individuals licensed or registered under this chapter shall display a photo
386 identification card on their person at all times when performing locksmith services. Every
387 photo identification card shall contain the individual's name, the name of the business, and
388 the locksmith contractor's license number.

389 (c)(1) An identification card for a locksmith contractor or a locksmith shall include the
390 word 'Locksmith.'

391 (2) An identification card for an automotive only locksmith shall include the words
392 'Automotive Only Locksmith.'

393 (3) An identification card for an apprentice locksmith shall include the words 'Apprentice
394 Locksmith' or 'Apprentice Automotive Only Locksmith.'

395 (d) A locksmith contractor shall display a copy of his or her license at his or her normal
396 places of business and in a manner easily readable by the general public. A locksmith
397 contractor providing mobile only service shall retain a copy of his or her license in his or
398 her service vehicle for presentation to any person of the general public, any law
399 enforcement officer, or any state or local official immediately upon request.

400 (e)(1) Any advertisement or advertising, service vehicles, and forms must include the
401 license number of the locksmith contractor and the name of the business listed with the
402 board.

403 (2) For the purposes of this subsection, the term 'advertisement' or 'advertising' includes
404 any business card, stationery, brochure, flier, circular, newsletter, facsimile, form, or
405 printed or published paid advertisement in any media form, directory listing, or telephone
406 book listing.

407 (3) The board may assess a minimum fine of \$500.00 for the first violation of this
408 subsection and a minimum fine of \$1,000.00 for each subsequent violation. The penalty
409 may be sued for and recovered by the board.

410 43-23A-11.

411 (a) Any locksmith contractor or locksmith who knowingly and willfully opens any motor
412 vehicle or residential or commercial establishment or originates a key for another by any

method, whether or not for compensation, shall make a reasonable attempt to obtain and record the following information on the work order or sales receipt form:

(1) The street address or location of the motor vehicle to be opened, the motor vehicle's license or vehicle identification number, the street address of the resident or commercial establishment to be opened, and the signature of the person for whom the motor vehicle, residence, or commercial establishment was opened; and

(2) The name, address, telephone number, and driver's license number of the person requesting the entry service, if appropriate.

(b) A copy of each work order or sales receipt shall be retained for two years and shall include the name of the person performing the service. A copy of each work order or sales receipt shall be readily available for inspection by any law enforcement officer or by the board, or its designee, any time during normal business hours.

43-23A-12.

(a) A person shall not:

(1) Act as or offer to act as a locksmith and provide locksmith services unless he or she is a locksmith contractor with a license that has not expired or been revoked or suspended or is employed by a licensed locksmith contractor;

(2) Advertise that he or she is in the locksmith business or hold himself or herself out to the public as a locksmith unless he or she is a licensed locksmith contractor with a license that has not expired or been revoked or suspended or is employed as a locksmith by a licensed locksmith contractor;

(3) Obtain ownership or possession of locksmithing tools; bump, change, master, manipulation, or tryout keys; car opening tools; code-grabbing devices; lock picks; safe-opening tools; or manuals or codebooks in any format, either in person, through an intermediary, through mail order, or any other remote procurement method, unless he or she is a locksmith contractor whose license has not expired or been revoked or suspended, is employed as a locksmith, and is registered with the board or is specifically exempted under this chapter;

(4) Obtain ownership or possession of car opening tools, either in person, through an intermediary, or through mail order or any other remote procurement method, unless he or she is legitimately employed in and is actively performing duties in the motor vehicle repossession, recovery, repair, or towing business;

(5) Possess locksmithing tools, implements, or outfits unless the person is a bona fide dealer, locksmith contractor, locksmith, automobile reposessor, motor vehicle recovery or towing service employee, or locking device manufacturer, or such manufacturer's agent, who has a reasonable need to possess locksmithing tools, implements, or outfits

for demonstration, testing, and research purposes. Possession by any other person shall be prima-facie evidence of an intent to commit burglary, robbery, or theft; or

(6) Be employed as an apprentice locksmith and act as a supervisor of any locksmith.

(b) An organization shall not:

(1) Provide or offer locksmith services unless such services are or can be provided by a locksmith contractor who possesses a license which has not expired or been revoked or suspended and is employed by the organization or are or can be provided by a locksmith employed by the organization; or

(2) Obtain ownership or possession of locksmithing tools; safe-opening tools; bump, change, master, manipulation, or tryouts keys; code-grabbing devices; lock picks; or car opening tools, manuals, or codebooks by means of an employee, officer, or other person who violates this Code section.

(c) It shall be unlawful for any person or organization to engage in any of the following acts:

(1) Making use of any designation provided by statute or rule or regulation to denote a standard of professional or occupational competence required under this chapter without being duly registered or licensed under this chapter;

(2) Making use of any title, words, letters, or abbreviations which may reasonably be confused with a designation provided by statute or rule or regulation to denote a standard of professional or occupational competence required under this chapter without being duly registered or licensed under this chapter;

(3) Providing material misrepresenting facts in an application for licensing or registration; or

(4) Willfully refusing to furnish the board information or records required or requested pursuant to state law or rules or regulations.

(d)(1) Any person who violates any provision of paragraphs (1) through (4) of subsection (a) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(2) Any person, other than such person as permitted in this chapter, who has in his or her possession any locksmithing tools, implements, or outfits with intent to commit burglary, robbery, or theft shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(3) Unless otherwise specified, any person or organization that willfully engages in any unlawful act enumerated in this Code section shall be guilty of a misdemeanor of a high and aggravated nature. The third or any subsequent conviction for violating this Code section during a 36-month period shall constitute a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(e) The board may institute proceedings in equity to enjoin any person, partnership, corporation, or other entity from engaging in any unlawful act enumerated in this Code section. Such proceedings shall be brought in the name of the state by the board in the superior court of the county in which the unlawful act occurred or in which the defendant resides.

(f)(1) In addition to the above penalties, any person licensed by the board who violates any law, rule or regulation, or provision of this chapter that pertains to the profession of locksmithing and who is not criminally prosecuted for the violation shall be subject to the monetary penalty provided in this subsection.

(2) If the board determines that a respondent is guilty of the violation complained of, the board shall determine the amount of the monetary penalty for the violation, which shall not exceed \$10,000.00 for each violation. The penalty may be sued for and recovered by the board.

(3) After a hearing, wherein a sanction is imposed to fine, to suspend, revoke, or deny a license, or to deny renewal of a license, the board may assess the license holder the cost of conducting such a hearing when the board has final authority to grant a license, unless the board determines that the offense was inadvertent or done in a good faith belief that the act did not violate a state law or rule or regulation. The cost shall be limited to the reasonable hourly rate for the hearing officer and the actual cost of recording the proceedings.

43-23A-13.

(a) The following acts constitute grounds for which the disciplinary actions in subsection (b) of this Code section may be taken:

(1) Violation of any provision of Code Section 43-23A-12 or any other provision of this chapter; or

(2) Violation of a rule or regulation of the board or any order of the board previously entered in a disciplinary hearing.

(b) When the board finds any person guilty of any of the grounds set forth in subsection (a) of this Code section, it may enter an order taking one or more of the following actions:

(1) Rejecting the person's application for a license;

(2) Suspending or permanently revoking a person's license;

(3) Restricting the person's practice;

(4) Imposing an administrative fine not to exceed \$5,000.00 for each count or separate offense;

(5) Issuing a reprimand to the person;

(6) Placing the person on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found; or

(7) Other corrective action as the board may deem appropriate.

43-23A-14.

(a) The board shall maintain a list of the names and addresses of all locksmith contractors licensed under this chapter as well as all locksmiths and apprentice locksmiths. The lists shall be made available by the board to any person upon request and payment of the required fee.

(b) The locksmith contractor shall notify the board within ten business days of a locksmith or an apprentice locksmith no longer working under the license of the locksmith contractor.

43-23A-15.

Effective July 1, 2011, no person shall do business in the state as a locksmith contractor without having obtained the proper license from the board. No person other than a duly licensed locksmith contractor, a registered locksmith working under the supervision of a locksmith contractor, or a registered apprentice locksmith working under the supervision of a locksmith contractor or a locksmith shall provide locksmith services in this state unless exempted under Code Section 43-23A-16.

43-23A-16.

This chapter shall not apply to:

(1) A member of a police department, fire department, or other government agency, in his or her official line of duty, providing emergency opening services;

(2) A sales representative providing a bona fide sales demonstration of products to locksmiths;

(3) An in-store employee of a hardware or do-it-yourself home products sales store rekeying locks just purchased, or about to be purchased, in the store of the employee;

(4) A licensed low-voltage contractor installing or servicing electromechanical, electronic, or electromagnetic devices and peripheral hardware;

(5) An individual acquiring or using any key duplication machine or key blanks for personal use;

(6) A property owner or an agent of the property owner maintaining a file of key cutting data for a master-key system on the property;

- 555 (7) An employee of a bank, savings and loan, credit union, or trust company providing
556 safe, safe-deposit box, or vault opening or servicing services at his or her place of
557 employment;
- 558 (8) An automotive service dealer, a lock manufacturer, or an agent of a lock
559 manufacturer servicing, installing, repairing, or rebuilding automotive locks;
- 560 (9) Building trades personnel installing locks or locking devices on a project that requires
561 a building permit; or
- 562 (10) A tow truck company or a tow truck operator possessing and using car opening tools
563 necessary to unlock vehicles to facilitate towing."

564 **SECTION 2.**

565 For the purposes of appointing members of the State Board of Locksmiths, this Act shall
566 become effective upon its approval by the Governor or upon its becoming law without such
567 approval. For all other purposes, this Act shall become effective on July 1, 2010.

568 **SECTION 3.**

569 All laws and parts of laws in conflict with this Act are repealed.